

MELINDA HAAG (CABN 132612)
United States Attorney

Filed

OCT 23 2012

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

E-filing

CR12 00758

DLJ

PSG

UNITED STATES OF AMERICA,
Plaintiff,
v.
MYOGENIX CORP.,
Defendant.

No.

VIOLATION: 21 U.S.C. §§ 331(d) and
333(a)(2)--Introduction and Delivery of
Unapproved New Drugs Into Interstate
Commerce With The Intent To Defraud And
Mislead; 21 U.S.C. §§ 334 & 853(p); 28
U.S.C. § 2461(c) - Criminal Forfeiture

SAN JOSE VENUE

INFORMATION

The United States Attorney charges:

COUNT ONE: (21 U.S.C. §§ 331(d) and 333(a)(2) – Introduction/Delivery for Introduction Of
Unapproved Drugs With Intent to Defraud and Mislead.)

Beginning in approximately September 2007, and continuing through July 2009, in Santa
Clara County, in the Northern District of California, and elsewhere, the defendant

MYOGENIX CORP.,

with the intent to defraud and mislead, did introduce, and deliver for introduction, into interstate
commerce new drugs, as defined at Title 21, United States Code, Section 321(p), which had not
been approved by the Food and Drug Administration as required by Title 21, United States Code,

MYOGENIX, CORP.
INFORMATION

Section 355, that is, "Myogenix Spawn," a purported dietary supplement whose main active ingredient was the following synthetic steroid:

"Estradienedione/Estra/Tren," also known by the chemical name, "4,9(10)-estradiene-3, 17-dione."

In violation of Title 21, United States Code, Sections 331(d) and 333(a)(2).

FORFEITURE ALLEGATION: 21 U.S.C. §§ 334 & 853(p); 28 U.S.C. § 2461(c)

The allegations of Count One are realleged and incorporated herein.

Upon conviction of the offenses alleged in Count One, the defendant,

MYOGENIX CORP.,

shall forfeit to the United States any quantities of "MyoGenix Spawn," which between September 2007, and July 2009 were misbranded when introduced into interstate commerce, and which could not, under the provisions of Title 21, United States Code, Section 331, be lawfully introduced into interstate commerce.

If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture, that is, \$100,000.00.

All pursuant to Title 21, United States Code, Sections 334 and 853(p), and Title 28, United States Code, Section 2461(c).

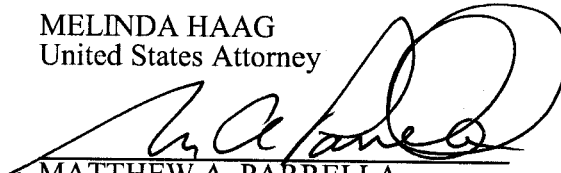
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MYOGENIX, CORP.
INFORMATION

1 All in violation of Title 18, United States Code, Section 982; Title 21, United States
2 Code, Sections 331(d), 333(a)(2), and 853(p); and Rule 32.2 of the Federal Rules of Criminal
3 Procedure.

4
5 DATED: 10/22/12

MELINDA HAAG
United States Attorney

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8 MATTHEW A. PARRELLA
Chief, CHIP Unit

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10 (Approved as to form: MAP)
11 MATTHEW A. PARRELLA
Assistant United States Attorney

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

Ct 1: 21 U.S.C. §§ 331(d) and 333(a)(2)—Introduction and Delivery of Unapproved New Drugs Into Interstate Commerce With The Intent To Defraud And Mislead; 21 U.S.C. §§ 334 & 853(p); 28 U.S.C. § 2461(c) - Criminal Forfeiture

☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: Ct 1: Maximum Fine: \$500,000

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

RICHARD W. WIEKING

CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

DEFENDANT - U.S.

MYOGENIX CORP.

DISTRICT COURT NUMBER

CR12 00758

DLJ

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Food and Drug Administration-Office of Criminal Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW
DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE
CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Matthew A. Parrella

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.
 1) ☐ If not detained give date any prior summons was served on above charges

2) ☐ Is a Fugitive

3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

4) ☐ On this charge

5) ☐ On another conviction

☐ Federal ☐ State

6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Nov. 13, 2012; 9:30 a.m. Before Judge: Paul S. Grewal

Comments: Defense Attorney: Richard D. Collins; 516-294-0300; 138 Mineola Blvd, Mineola, NY 11501